

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

GERARDO VELASCO-LOPEZ,

Defendant.

NO. CR09-5588BHS

ORDER GRANTING JOINT MOTION
TO EXTEND TIME TO FILE
INDICTMENT UNDER SPEEDY TRIAL
ACT

The Court, having considered the parties' Joint Motion To Extend Time To File
Indictment Under Speedy Trial Act finds that:

1. Mr. Velasco-Lopez is charged by Information with Illegal Reentry after
Deportation on August 12, 2009, in violation of Title 8, United State Code, Sections 1326(a).
Defendant was arrested and made his Initial Appearance on August 27, 2009. On August 27,
2009, the Court ordered that the defendant be detained in custody pending further proceedings.

2. Under the Speedy Trial Act, an Indictment charging a defendant must be filed
within 30 days from the date on which the defendant was arrested or served with a summons
in connection with such charges. 18 U.S.C. §3161(b). Hence, at the present time, the United
States must obtain an Indictment in this case on or before September 27, 2009, to meet the
requirements of the Speedy Trial Act.

3. The defendant is diligently conducting an investigation into his status at the time

1 of his alleged offense, the adequacy of his prior deportation proceedings, and the extent of his
2 criminal history. The defendant believes that the results of its investigation will be essential to
3 preparing his defense and may facilitate a resolution of this matter.

4 4. Accordingly, the parties are seeking an Order continuing the time within which
5 an Indictment must be filed on the ground that the “ends of justice served by taking such
6 action outweigh the best interest of the public and the defendant in a speedy trial,” as
7 permitted by 18 U.S.C. §§ 3161(h)(8)(A), (B)(i) and (B)(iv).

8 5. Given that the defense’s investigation remains incomplete, the parties believe
9 that the failure to grant this extension would deny the defense the reasonable time necessary
10 for adequate and effective preparation, taking into account the exercise of due diligence. The
11 parties believe that a denial of a continuance would result in a miscarriage of justice.

12 6. The defendant has executed a Waiver of Speedy Trial waiving rights under the
13 Sixth Amendment and the Speedy Trial Act, 18 U.S.C. §§ 3161-3174 in this regard, and has
14 further agreed that the period from September 27, 2009, until November 30, 2009, shall be an
15 excludable period of time under the Speedy Trial Act pursuant to 18 U.S.C. §3161(h)(8)(A).

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2 In light of the foregoing, IT IS HEREBY ORDERED that the time to file an indictment
3 be continued to November 30, 2009. The period of delay resulting from this continuance from
4 September 27, 2009, to November 30, 2009, is hereby excluded for speedy trial purposes
5 under 18 U.S.C. §3161(h)(7).

6 DONE this 8th day of September 2009.

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10 BENJAMIN H. SETTLE
11 United States District Judge
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13 Presented by:

14
15 /s/ *Russell V. Leonard* _____

16 Russell V. Leonard
17 Attorney for Defendant

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19 /s/ *John Odell* _____

20 John Odell
21 Special Assistant United States Attorney
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